1 What if they are named in a general way? 2 Where a sine quo non dies — the ~~other~~ rest should be preferred as Tutors before to all others —

Survivors. Mckenzie inst. lib. i. tit. 7. §. 22. Where Tutors or Curators are named without the Word jointly, or any Quorum expressed, the Office falls by the Death of the major part. But if they be named jointly and severally, the all should die save one, the Office subsists in that one Survivor. Where a sine quo non is named, his Death annulls the Nomination. Stewart's Answers to Dirlet. Doubts tit. Tutory. Thus one having named his own Lady, and Brother in Law, jointly and others or any of them to be Tutors to his Son, his Lady and in in Case of her Absence, his Brother in Law being always one, when the Lady married and the Brother-in-Law died, the Testamentory Tutorship was found to expire, and fall by the Death and Incapacity of the Tutors sine quibus non 1 Feb. 1688. M. Montrose contra his Tutors and nearest of Kin. For a sine quo non imports more than that while such a Person is in a Capacity to act, nothing should be done without him. But where a sine quo non among Tutors named by a Father dies, the rest of these Tutors should be admitted upon a Dative, and preferred to all others whether Tutors of Law or Dative. Stewart ibid. Since the Father by his Nomination excluded the nearest of Kin and placed his Confidence in those nominated above others. Where three Curators or any two of them, whereof one be sine quo non were chosen upon the Death of the Curator sine quo non the Minors were found sufficiently authorized by the other two, these Minors appearing judicially and acknowledging them for their Curators 4 January 1666 Fairfoals contra Binnie. 3° The Office expires by the Marriage of a Female Minor. In respect Wives being under the Power of their Husbands are sole Tutors and Curators to them during their Minority; the Authority of such as were Tutors or Curators to them before, ceases upon their entering into the State of Matrimony, and devolves by Law upon their Husbands who only can authorize them. Nor doth the Office of such Tutors or Curators revive, upon the Husband's dying in the Wife's Minority Vost. Comm. ad tit. ff. de adopt. n. 19. & ad tit. ff. de minor. n. 9. Altho she has the Benefit of Restitution as other Minors Vost. ibid. Quar. If a Husband who is Minor marrie a Wife having Curators, will their Office cease in that Case?

Curators sine quo non dying.

Or can a Minor wife — Tutors Office does not revive by Husband's death

Sir James Stewart (answers to Dirlet. Doubts tit. Curator) is of Opinion, that tho a Female Minor under Curatory being married, comes in potestate viri, and the Husband gets Right to her Moveables jure mariti, as if the Curator had consented to it: yet as to her other Estate, the Curatory stands.

By

— A married minor if single remains under curator? 1 Mother cum tutore — Tutor cannot recover if other second husband died.

By the Laws of most other civilized Nations except Frizeland, Males after their Marriage have the free Administration and Disposal of their Estates, without being any longer under Tutory or Curatory, Vost. comm. ad tit. ff. de minor. n. 9. because Masters of Families should be allowed to improve their Stock by trading and bargaining, for the Provision of their Wives and Children. Nor do they lose that Privilege, tho the Marriage dissolve before they attain to the ordinary Time of Majority. But it is not so with us: we allow those to marry whose Youth and want of Experience in Business, we supply by the Assistance of Curators.

4° The Office expires by the second Marriage of a Mother who is Tutrix to her own Child Craig Feud. lib. 2. tit. 20. §. 8. whether Testamentory or Dative. Because Law justly presumes, that the superinduction of a Step-father may be many ways prejudicial to the Pupils; and the Tutrix falling under the Government of a Husband, cannot govern the Pupil. In which Case the Husband will be liable jure mariti for his Wife's Management as Tutrix before the Marriage: but for any Intromission has by her or him after their Marriage, and during the standing thereof, she and her third Husband were not found liable, till the Heirs and Executors of the second Husband were first discussed 28 March 1629 Matthison contra L. Warriston. ~~[illegible]~~ ~~[illegible]~~ ~~[illegible]~~ Seeing the Wife's Tutory fell by her Marriage and so her and her Husband's Intromission could not be ascribed to that Office; but the said Husband's Representatives ought to answer for the same. A Father cannot in the Nomination of his Wife to be Tutrix to her Children, dispence with her marrying, and appoint her to continue Tutrix notwithstanding Jo. Dogl. Comm. Decis. 1. Dogl. Tut. n. 3. 8 March 1636 Stewart contra Henderson Spotswood's Tract. tit. Tutors and Curators Stair lib. 1. tit. 6. §. 24. Because no man can order his latter Will, as that the Law shall not take Place therein C. 55. ff. de legat. i. A Mother fallen from her Office by marrying again, doth not recover it by that Husband's Decease Mynsing. cent. 3. observ. 83. fo. Gutterrez de tutel. p. i. Jo. Dogl. Comm. Decis. 1. Dogl. Tut. n. 3. Boyer Decis. 105. n. 22. Albeit a Mother doth lose the Office of Tutory to her own Children by her marrying again as Law doth divest a Father of his Office of Tutor of Law to his own Children, upon his marrying a second Time. Because Experience teacheth us that a Man's Affection is not so apt to be alienated from his own Child by a second Wife; as a Wife is ready to be influenced by a new Husband. It was once found, that a Tutrix lost her Office by falling into Fornication 14 July 1557 L. Largo contra Monipenny. and Craig (Feud. lib. 2. tit. 20. §. 8) says that a Mother or Grand-mother falls from her Office of Tutrix si corpus suum polluat.

President